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composite rating of 3 under the ROCA rating system (which rates risk management, operational controls, compliance, and asset quality) at its most recent examination; and

(2) 2.0, in the case of any bank or Federal savings association that receives a composite UFIRS rating of 4 or 5 and any Federal branch or agency that receives a composite rating of 4 or 5 under the ROCA rating system at its most recent examination.

[76 FR 43566, July 21, 2011]

§ 8.6 Fees for special examinations and investigations.

(a) *Fees.* Pursuant to the authority contained in 12 U.S.C. 16, 481, 482, 1467, and 1831c, the Office of the Comptroller of the Currency may assess a fee for:

(1) Examining the fiduciary activities of national banks and Federal savings associations and related entities;

(2) Conducting special examinations and investigations of national banks, Federal branches or agencies of foreign banks, and Federal savings associations;

(3) Conducting special examinations and investigations of an entity with respect to its performance of activities described in section 7(c) of the Bank Service Company Act (12 U.S.C. 1867(c)) if the OCC determines that assessment of the fee is warranted with regard to a particular bank or Federal savings association because of the high risk or unusual nature of the activities performed; the significance to the bank's or Federal saving association's operations and income of the activities performed; or the extent to which the bank or Federal savings association has sufficient systems, controls, and personnel to adequately monitor, measure, and control risks arising from such activities;

(4) Conducting special examinations and investigations of affiliates of national banks, Federal savings associations, and Federal branches or agencies of foreign banks;

(5) Conducting examinations and investigations made pursuant to 12 CFR part 5, Rules, Policies, and Procedures for Corporate Activities; and

(6) Conducting examinations of depository-institution permissible activities of nondepository institution sub-

sidiaries of depository institution holding companies pursuant to section 605(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 1831c).

(b) *Notice of Comptroller of the Currency fees.* The OCC publishes the fee schedule for fiduciary activities, special examinations and investigations, examinations of affiliates and examinations related to corporate activities in the "Notice of Comptroller of the Currency Fees" described in § 8.8.

(c) *Additional assessments on trust banks and trust Federal savings associations—*(1) *Independent trust banks and independent trust Federal savings associations.* The assessment of independent trust banks and independent trust Federal savings associations will include a fiduciary and related asset component, in addition to the assessment calculated according to § 8.2 of this part, as follows:

(i) *Minimum fee.* All independent trust banks and independent trust Federal savings associations will pay a minimum fee, to be provided in the "Notice of Comptroller of the Currency Fees."

(ii) *Additional amount for independent trust banks and independent trust Federal savings associations with fiduciary and related assets in excess of \$1 billion.* Independent trust banks and independent trust Federal savings associations with fiduciary and related assets in excess of \$1 billion will pay an amount that exceeds the minimum fee. The amount to be paid will be calculated by multiplying the amount of fiduciary and related assets by a rate or rates provided by the OCC in the "Notice of Comptroller of the Currency Fees."

(iii) *Surcharge based on the condition of the bank or of the Federal savings association.* Subject to any limit that the OCC prescribes in the "Notice of Comptroller of the Currency Fees," the OCC shall adjust the semiannual assessment computed in accordance with paragraphs (c)(1)(i) and (ii) of this section by multiplying that figure by 1.5 for each independent trust bank and independent trust Federal savings association that receives a composite rating of 3 under the Uniform Financial Institutions Rating System (UFIRS) at its most recent examination and by 2.0 for each bank that receives a composite

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UFIRS rating of 4 or 5 at such examination.

(2) *Trust banks affiliated with full-service national banks and trust Federal savings associations affiliated with full-service Federal savings associations.* The OCC will assess a trust bank and a trust Federal savings association in accordance with paragraph (c)(1) of this section, notwithstanding that the bank is affiliated with a full-service national bank, or that the Federal savings association is affiliated with a full-service Federal savings association, if the OCC concludes that the affiliation is intended to evade the assessment regulation.

(3) *Definitions.* For purposes of this paragraph (c) of this section, the following definitions apply:

(i) *Affiliate*, with respect to a national bank, has the same meaning as this term has in 12 U.S.C. 221a(b);

(ii) *Affiliate*, with respect to Federal savings associations, has the same meaning as in 12 U.S.C. 1462(9).

(iii) *Full-service national bank* is a national bank that generates more than 50% of its interest and non-interest income from activities other than credit card operations or trust activities and is authorized according to its charter to engage in all types of permissible banking activities.

(iv) *Full-service trust Federal savings association* is a Federal savings association that generates more than 50% of its interest and non-interest income from activities other than credit card operations or trust activities and is authorized according to its charter to engage in all types of activities permissible for Federal savings associations.

(v) *Independent trust bank* is a national bank that has trust powers, does not primarily offer full-service banking, and is not affiliated with a full-service national bank;

(vi) *Independent trust Federal savings association* is a Federal savings association that has trust powers, does not primarily offer full-service banking, and is not affiliated with a full-service Federal savings association; and

(vii) *Fiduciary and related assets* are those assets reported on Schedule RC-T of FFIEC Forms 031 and 041, Line 10 (columns A and B) and Line 11 (column B), any successor form issued by the

FFIEC, and any other fiduciary and related assets defined in the “Notice of Comptroller of the Currency Fees.”

[76 FR 43568, July 21, 2011, as amended at 76 FR 43568, July 7, 2011]

§ 8.7 Payment of interest on delinquent assessments and examination and investigation fees.

(a) Each national bank, each Federal branch, each Federal agency, and each Federal savings association shall pay to the Comptroller of the Currency interest on its delinquent payments of semiannual assessments. In addition, each national bank, each Federal savings association, and each entity with a trust department examined by the Comptroller of the Currency and each institution that is the subject of a special examination or investigation conducted by the Comptroller of the Currency shall pay to the Comptroller of the Currency interest on its delinquent payments of examination and investigation fees. Semiannual assessment payments will be considered delinquent if they are received after the time for payment specified in § 8.2. Examination and investigation fees will be considered delinquent if not received by the Comptroller of the Currency within 30 calendar days of the invoice date.

(b) In the event that an entity that is required to make semiannual assessment payments or trust examination fee payments believes that the notice of assessments prepared by the Comptroller of the Currency contains an error of miscalculation, the entity may provide the Comptroller of the Currency with a written request for a revised assessment notice and a refund of any overpayments. Any such request for a revised notice and refund must be made after timely payment of the semiannual assessment under the dates specified in § 8.2.

(1) Refund the amount of the overpayment or

(2) Provide notice of its unwillingness to accept the request for a revised notice of assessments. In the latter instance, the Comptroller of the Currency and the entity claiming the overpayment shall thereafter attempt to reach agreement on the amount, if any, to be refunded; the Comptroller of the Currency shall refund this amount